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EXAMINER
SHEPARD, JUSTIN E

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 June 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-23</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-23</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

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DETAILED ACTION

Response to Arguments

Applicant's arguments, see Remarks, filed 6/18/09, with respect to the

rejection(s) of claim(s) 1, 5-7, 9-16, and 19-23 under 103(a) have been fully considered

and are persuasive. Therefore, the rejection has been withdrawn. However, upon

further consideration, a new ground(s) of rejection is made in view of Slik in view of

Lawler in view of Tash.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5-16, and 19-23 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Slik in view of Lawler in view of Tash.

Referring to claim 1, Slik discloses a server comprising computer readable

medium for storing an asset (figure 1; column 3, lines 4-15), wherein said asset has a

structure combining both related content and data for distribution and service

implementation in a digital cable system (column 1, lines 57-66; column 2, lines 62-66),

said asset comprising:

a metadata object, wherein the metadata object further comprises an application

program identifier identifying an application program executing in a cable headend

associated with processing the asset and wherein the structure is understood by the

application program identified by the application program identifier (column 3, lines 41-

47; column 4, lines 59-63); and

a content object (column 5, lines 5-10), wherein the content object represents

data to be stored in the cable headend based upon instructions originating from the

application program as a result of interpreting the metadata object and wherein the

metadata object identifies the content object (column 5, lines 57-61).

Slik does not disclose a system wherein the server is a staging server; and

wherein the content object represents data to be stored in one of a plurality of

content servers.

In an analogous art, Lawler teaches a system wherein the content object

represents data to be stored in one of a plurality of content servers (figure 1, part 30, 32,

and 34; column 5, lines 54-62; column 6, lines 17-22).

At the time of the invention, it would have been obvious for one of ordinary skill in

the art to add the multiple content servers taught by Lawler to the system disclosed by

Slik. The motivation would have been to enable the headend to use one access point

for all the data, while being able to keep the data separate (Lawler: column 5, lines 54-

62; column 6, lines 17-22).

Slik and Lawler do not disclose a system wherein the server is a staging server.

In an analogous art, Tash teaches a system wherein the server is a staging server (figure 3, parts 300 and 302).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the staging server taught by Tash to the system disclosed by Slik and Lawler. The motivation would have been to allow for streaming content to be held and then transferred to the appropriate server for later distribution to the users.

Referring to claim 5, Slik does not disclose an asset of claim 1, wherein the content object represents data selected from the group comprising an MPEG file, an executable file, an HTML page, and a JPEG image.

In an analogous art, Lawler teaches an asset of claim 1, wherein the content object represents data selected from the group comprising an MPEG file, an executable file, an HTML page, and a JPEG image (column 5, lines 30-35).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the MPEG and executable file types taught by Lawler to the content disclosed by Slik. The motivation would have been to enable more content to be available to the subscribers, and therefore make the system more enticing to possible subscribers.

Referring to claim 6, Slik does not disclose an asset of claim 1, wherein the metadata object identifies the content object as a movie.

In an analogous art, Lawler teaches an asset of claim 1, wherein the metadata object identifies the content object as a movie (column 16, lines 42-44).

At the time of the invention, it would have been obvious for one of ordinary skill in the art to add the movie identifying metadata taught by Lawler to the metadata disclosed by Slik. The motivation would have been that movies are a common type of programming broadcast on television and Slik teaches that the content is identified by the metadata (column 3, lines 41-47).

Referring to claim 7, Slik discloses an asset of claim 1, further comprising a machine readable description file that further identifies the content object (column 3, lines 41-47; column 5, line 67 to column 6, line 2).

Referring to claim 8, Slik discloses an asset of claim 7, wherein the machine readable description file comprises XML (column 3, lines 41-47; column 5, line 67 to column 6, line 2).

Referring to claim 9, Slik discloses a digital cable system comprising a cable headend that receives and delivers content and data related to the content to facilitate service implementation in a digital cable system (figure 1; column 3, lines 4-15), comprising:

a server located in the cable headend that receives an asset having a structure from a content provider (column 3, lines 41-47), wherein the asset comprises both the

content and the data related to the content (column 5, lines 5-10), the data related to the

content further comprising an application program identifier (column 3, lines 41-47); and

a first application program executing in the cable headend configured to process

a machine readable description file and the application program identifier to identify a

second application program executing in the cable headend understanding the structure

of the asset, wherein the second application program interprets the data related to the

content, and wherein the second application program identifies the destination from

among a plurality of content servers to receive the content from the server.

Slik does not disclose a system wherein the server is a staging server;

a content server located in the cable headend storing the content and in

communication with a subscriber set-top box for providing the content to the set-top

box;

wherein the content is directed to a particular content server.

In an analogous art, Lawler teaches a system with a content server located in the

cable headend storing the content and in communication with a subscriber set-top box

for providing the content to the set-top box;

wherein the content is directed to a particular content server (figure 1, part 30,

32, and 34; column 5, lines 54-62; column 6, lines 17-22).

At the time of the invention, it would have been obvious for one of ordinary skill in

the art to add the multiple content servers taught by Lawler to the system disclosed by

Slik. The motivation would have been to enable the headend to use one access point

for all the data, while being able to keep the data separate (Lawler: column 5, lines 54-

62; column 6, lines 17-22).

Slik and Lawler do not disclose a system wherein the server is a staging server.

In an analogous art, Tash teaches a system wherein the server is a staging

server (figure 3, parts 300 and 302).

At the time of the invention, it would have been obvious for one of ordinary skill in

the art to add the staging server taught by Tash to the system disclosed by Slik and

Lawler. The motivation would have been to allow for streaming content to be held and

then transferred to the appropriate server for later distribution to the users.

Referring to claim 10, Slik discloses a system of claim 9, further comprising an

asset management system located in the cable headend comprising the first application

program processing the data related to the content to identify the application program

associated with the application identifier (column 3, lines 41-47).

Referring to claim 11, Slik discloses a system of claim 10, wherein the asset

management system maintains a database associating the content and the data related

to the content using the machine reasonable description file (column 5, lines 37-61).

Referring to claim 12, Slik and Lawler do not disclose a system of claim 10,

wherein the asset management system resides between the application program and

the staging server such that the staging server and application program are in indirect

communication.

In an analogous art, Tash teaches a system of claim 10, wherein the asset

management system resides between the application program and the staging server

such that the staging server and application program are in indirect communication

(figure 3).

At the time of the invention, it would have been obvious for one of ordinary skill in

the art to add the staging server controller taught by Tash to the system disclosed by

Slik and Lawler. The motivation would have been to allow for streaming content to be

held and then transferred to the appropriate server for later distribution to the users.

Referring to claim 13, Slik discloses a system of claim 10, wherein the asset

management system is operable to instruct the content server to request at least a

portion of the content from the staging server (column 5, lines 57-61).

Referring to claim 14, Slik discloses a system of claim 9, wherein the application

is operable to identify the content server based upon the data related to the content

(column 3, lines 41-47).

Referring to claim 15, Slik discloses a system of claim 9, wherein the content

server receives at least a portion of the content from the staging server (column 5, lines

57-61).

Referring to claim 16, Slik, Lawler and Tash do not disclose a system of claim 9, wherein the content server requests the at least a portion of the content from the staging server using File Transfer Protocol (FTP).

The Examiner takes Official Notice that it is notoriously well known in the art to use FTP to transfer files on a communication network.

At the time of the invention it would have been obvious for one of ordinary skill in the art to use FTP to connect up the components disclosed by Slik, Lawler and Tash. The motivation would have been to use a well known protocol to keep development costs down.

Claim 19 is rejected on the same grounds as claims 9, 10 and 15.

Claim 20 is rejected on the same grounds as claim 15.

Claim 21 is rejected on the same grounds as claim 15.

Claim 22 is rejected on the same grounds as claims 10 and 13.

Referring to claim 23, Slik discloses a method of claim 20, wherein the step of examining the related data by the application further comprises the step of identifying the one of a plurality of content servers that should receive at least a portion of the content based upon rules associated with the application.(column 3, lines 41-47).

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slik, Lawler and Tash as applied to claim 1 above, and further in view of Hall.

Referring to claim 2, Slik, Lawler and Tash do not disclose an asset of claim 1, further comprising an embedded asset, such that the asset is recursive.

In an analogous art, Hall teaches an asset of claim 1, further comprising an embedded asset, such that the asset is recursive (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Slik, Lawler and Tash. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 3, Slik, Lawler and Tash do not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object.

In an analogous art, Hall teaches an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Slik, Lawler and Tash. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 4, Slik, Lawler and Tash do not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object.

In an analogous art, Hall teaches an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object (figure 6, "PROPERTY 3").

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset taught by Hall in the system disclosed by Slik, Lawler and Tash. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slik, Lawler and Tash as applied to claim 9 above, and further in view of Chen.

Referring to claim 17, Slik, Lawler and Tash do not disclose a system of claim 9, wherein the application comprises a provisioning user interface to allow a user to identify the at least one server to receive at least a portion of the content.

In an analogous art, Chen teaches a system of claim 9, wherein the application comprises a provisioning user interface (figure 7, parts 508 and 510) to allow a user to identify the at least one server to receive at least a portion of the content (column 7, lines 10-14).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the UI taught by Chen to the system disclosed by Slik, Lawler and Tash.

The motivation would have been to enable the data to be further customized at the

headend, therefore allowing data to be changed on an as needed basis.

        Referring to claim 18, Slik, Lawler and Tash do not disclose a system of claim 17,

wherein the provisioning user interface allows a user to specify rules for distributing at

least a portion of the content to the content server.

        In an analogous art, Chen teaches a system of claim 17, wherein the

provisioning user interface allows a user to specify rules for distributing at least a portion

of the content to the content server (column 7, lines 10-14).

        At the time of the invention it would have been obvious for one of ordinary skill in

the art to add the UI taught by Chen to the system disclosed by Slik, Lawler and Tash.

The motivation would have been to enable the data to be further customized at the

headend, therefore allowing data to be changed on an as needed basis.

Conclusion

        The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

        US Patent 7,434,242 Goode teaches a system with multiple partitions on a

server, wherein each content provider is mapped to a particular server partition (column

3, lines 27-34).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher Kelley/
Supervisory Patent Examiner, Art
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JS